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Paper No. 10

In re Application of  
Donald L. Gadberry *et al*  
Application No. 09/675,851  
Filed: September 28, 2000  
Attorney Docket No. A-1719-AV

: DECISION ON PETITION  
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This is a decision on the petition filed on October 14, 2003 by which petitioners request withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the Office action dated February 27, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required. A refund of the \$55.00 fee tendered with the petition will be scheduled in due course.

The petition is granted.

Petitioners allege that this application is not abandoned because their failure to reply to the Office action in question resulted from the fact that the Office action was not received. Petitioners have supported this allegation with a showing which satisfies the requirements for a showing of nonreceipt of Office correspondence. See the Notice published at 1156 OG 53 and MPEP § 711.03(c). It is clear from petitioners' showing that the Office action dated February 27, 2003 was not received by petitioners, and therefore this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for Technology Center 3700 to schedule the refund discussed above. Thereafter, a complete copy of the Office letter dated October 27, 2003, together with all attachments thereto including references will be remailed. The period for reply to the remailed Office action will run THREE MONTHS from the date upon which the action is remailed, and can be extended up to the statutory maximum of six months under the provisions of 37 CFR 1.136(a).

PETITION GRANTED.

E. Rollins-Cross, Director  
Technology Center 3700

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